

RESOLUTION NO. R-2010- 1164

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/R-2009-03940
(CONTROL NO. 1984-00099)
a Requested Use
APPLICATION OF Boca Mission LLC
BY Siegel, Lipman, Dunay, Shepard, & Miskel, LLP, AGENT
(TD Bank)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended), have been satisfied; and

WHEREAS, Zoning Application ZV/DOA/R-2009-03940 was presented to the Board of County Commissioners at a public hearing conducted on July 22, 2010; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request; and

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a Requested Use.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application ZV/DOA/R-2009-03940, the petition of Boca Mission LLC, by Siegel, Lipman, Dunay, Shepard, & Miskel, LLP, agent, for a Requested Use to allow a financial institution with a 4 lane drive-through facility in the CG/SE Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on July 22, 2010, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

The motion was seconded by Commissioner Vana and, upon being put to a vote, the vote was as follows:

Commissioner Burt Aaronson, Chair

- Aye

Commissioner Karen T. Marcus, Vice Chair	-	Aye
Commissioner Jeff Koons	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 22, 2010.

Filed with the Clerk of the Board of County Commissioners on August 2, 2010.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1:

LEASEHOLD ESTATE IN AND TO THE FOLLOWING DESCRIBED LANDS:

(OUTLOT D):

A PARCEL OF LAND WITHIN THE PLAT OF MISSION BAY PLAZA, AS RECORDED IN PLAT BOOK 49, PAGES 160 THROUGH 162 INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND A PORTION OF A 30 FOOT RIGHT-OF-WAY ABANDONED PER RESOLUTION NO. R-84-1932, AS RECORDED IN OFFICIAL RECORD BOOK 4438, PAGE 1770, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND BEING MORE DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID MISSION BAY PLAZA; THENCE SOUTH 00°51'43" EAST ALONG THE EAST LINE OF SAID MISSION BAY PLAZA, A DISTANCE OF 560.64 FEET; THENCE SOUTH 01°06'06" WEST ALONG SAID EAST LINE AND ITS SOUTHERLY EXTENSION, A DISTANCE OF 41.89 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 01°06'06" WEST ALONG SAID EAST LINE A DISTANCE OF 194.61 FEET; THENCE SOUTH 89°08'17" WEST, A DISTANCE OF 191.90 FEET; THENCE NORTH 00°51'43" WEST; A DISTANCE OF 194.50 FEET; THENCE NORTH 89°08'17" EAST, A DISTANCE OF 198.56 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

NON-EXCLUSIVE INGRESS/EGRESS AND UTILITY EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CONTAINED IN THAT CERTAIN EASEMENT DEED GRANTED BY MISSION BAY DEVELOPMENT CO., INC. AND MISSION BAY COMMUNITY ASSOCIATION, INC. TO MISSION BAY PLAZA ASSOCIATES RECORDED IN OFFICIAL RECORDS BOOK 5014, PAGE 866 OVER THE FOLLOWING DESCRIBED PROPERTY:

A PORTION OF THE PLAT OF MISSION BAY, A PUD, AS RECORDED IN PLAT BOOK 53, PAGES 112-120, INCLUSIVE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF MISSION BAY PLAZA, AS RECORDED IN PLAT BOOK 49, PAGES 160-162, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 89°08'17" EAST ALONG A SOUTH LINE OF SAID MISSION BAY PLAZA, A DISTANCE OF 270.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUED NORTH 89°08'17" EAST A DISTANCE OF 105.00 FEET; THENCE NORTH 37°08'16" EAST, A DISTANCE OF 24.36 FEET; THENCE SOUTH 83°25'39" WEST, A DISTANCE OF 120.60 FEET; THENCE NORTH 00°51'43" WEST, A DISTANCE OF 135.00 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

SIGNAGE EASEMENT REMOVAL AND MAINTENANCE AGREEMENT BETWEEN MISSION BAY DEVELOPMENT CO., INC., AND MISSION BAY PLAZA ASSOCIATED AND MISSION BAY COMMUNITY ASSOCIATION, INC. RECORDED IN OFFICIAL RECORDS BOOK 5710, PAGE 1130, AFFECTING THE FOLLOWING DESCRIBED AS FOLLOWS:

A PORTION OF THE PLAT OF MISSION BAY, A PUD, RECORDED IN PLAT BOOK 53, PAGES 112-120, INCLUSIVE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE NORTHWEST RIGHT-OF-WAY OF STATE ROAD 7 AND THE NORTH RIGHT-OF-WAY OF GLADES ROAD AS SHOWN ON THE PLAT OF MISSION BAY. A PUD RECORDED IN PLAT BOOK 53, PAGES 112-120, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. SAID POINT ALSO BEING A POINT IN A CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 80.00 FEET, A CENTRAL ANGLE OF 14°24'12" AND WHOSE RADIUS POINT BEARS NORTH 15°15'55" WEST; THENCE WESTERLY ALONG THE ARC OF SAID CURVE AND SAID NORTH RIGHT-OF-WAY OF GLADES ROAD AN ARC DISTANCE OF 20.11 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 89°08'17" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE OF GLADES ROAD, A DISTANCE OF 341.84 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°08'17" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 10.64 FEET; THENCE NORTH 45°51'43" WEST, A DISTANCE OF 35.36 FEET TO THE EAST RIGHT-OF-WAY OF CALLE COMMERCIO AS SHOWN ON SAID PLAT; THENCE NORTH 00°51'43" WEST, ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE OF 10.00 FEET; THENCE NORTH 89°08'17" EAST A DISTANCE OF 35.36 FEET; THENCE SOUTH 00°51'43" EAST A DISTANCE OF 35.00 FEET TO THE POINT OF BEGINNING.

PARCEL 4:

NON-EXCLUSIVE DRAINAGE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CONTAINED IN PARAGRAPHS 1, 4, AND 5 OF THAT CERTAIN EASEMENT DEED AND LICENSE GRANTED BY MISSION BAY DEVELOPMENT CO., INC., TO CENTRUM MISSION BAY, LTD., DATED FEBRUARY 19, 1995 IN OFFICIAL RECORDS BOOK 4470, PAGE 216, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 5:

NON-EXCLUSIVE DRAINAGE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CONTAINED IN EASEMENT DEED IN FAVOR OF MISSION BAY PLAZA ASSOCIATED, DATED AUGUST 19, 1996, AND RECORDED SEPTEMBER 23, 1996 IN OFFICIAL RECORDS BOOK 5014, PAGE 870, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 6:

NON-EXCLUSIVE EASEMENT, LICENSE AND PRIVILEGE OF INGRESS, EGRESS AND ACCESS FOR PEDESTRIAN AND VEHICULAR TRAFFIC OVER, THROUGH AND ACROSS AND UPON ALL DRIVEWAYS, SIDEWALKS AND PARKING AREAS LOCATED ON THE SHOPPING CENTER PROPERTY AS CONTAINED IN THAT CERTAIN DECLARATION OF RECIPROCAL PARING, INGRESS AND EGRESS DATED JULY 28, 1988 AND RECORDED IN OFFICIAL RECORDS BOOK 5761, PAGE 574, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 7:

A PERPETUAL NON-EXCLUSIVE EASEMENT RIGHT(S) FOR INGRESS AND EGRESS OVER, ACROSS, UNDER AND THROUGH A 15 FOOT AREA AROUND THE PERIMETER OF THE PREMISES AS DESCRIBED IN THAT CERTAIN WARRANTY DEED DATED JULY 14, 1994 AND RECORDED IN OFFICIAL RECORDS BOOK 8373, PAGE 1351, PUBLIC

EXHIBIT B
VICINITY SKETCH

VICINITY SKETCH

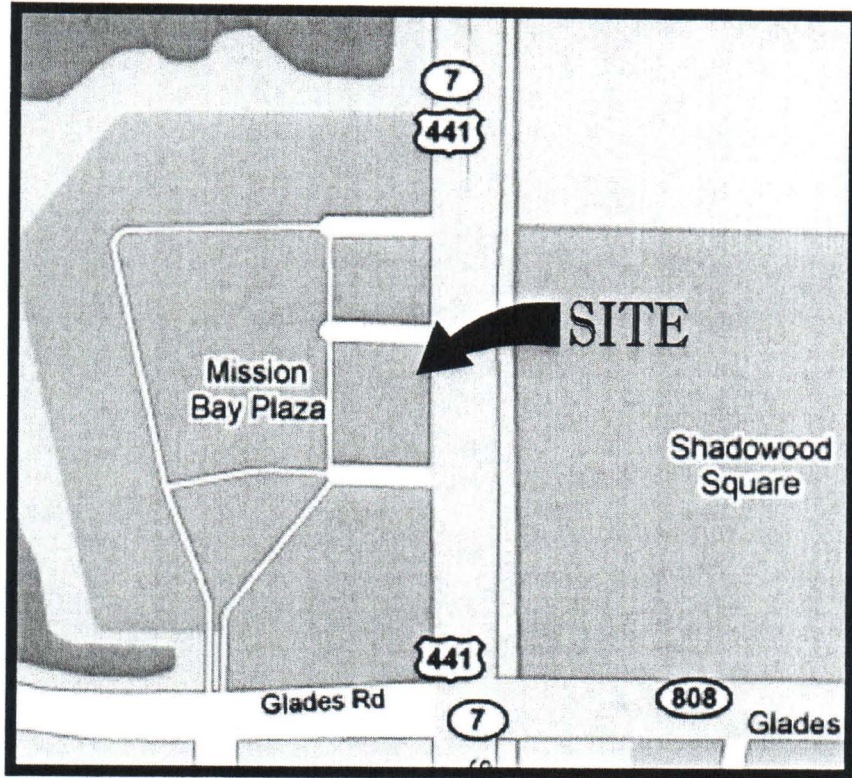


EXHIBIT C

CONDITIONS OF APPROVAL

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the 3,964-SF financial institution shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

2. The exterior elevations of all buildings shall include exterior colors that shall be similar to those already used within the development. Building colors shall be varied by providing contrasting, but complimentary, colors for the building trims and massing (i.e. stucco banding, door and window frames, etc.). Roof and trim colors shall be coordinated with base colors. (DRO: ARCH REVIEW - Zoning)

LANDSCAPE - INTERIOR

1. A divider median shall be provided between each adjacent drive-thru lane as follows:

- a minimum width of five (5) feet excluding curb. This median shall extend a minimum distance of five (5) feet beyond the East and West boundaries of the overhead canopy;
- the East and West extensions of this median beyond the overhead canopy shall be planted with a palm having a minimum grey wood height of ten (10) feet and appropriate ground cover; and,
- the remaining portions of this median lying beneath the overhead canopy shall be surfaced with brick, precast paving block, or other decorative paving surface. (BLDG PERMIT: LANDSCAPE - Zoning)

2. All landscape focal points shall be subject to review and approval by the Landscape Section and reflected on the Regulating Plan prior to final approval by the Development Review Officer (DRO). (DRO: LANDSCAPE - Zoning)

3. Special planting treatment shall be provided along the access drive abutting the north side of the outparcel. Planting shall consist of the following:

- a minimum of six (6) Royal Palms, Canary Palms, Phoenix Palms, Medjool Palms, or other specimen palm that is acceptable to the Landscape reviewers; and,
- flowering groundcover accent planting. (BLDG PERMIT: LANDSCAPE - Zoning)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy (CO); the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- A requirement of the development to conform with the standards of the Unified

Land Development Code (ULDC) at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or

- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)